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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,839	07/30/2003	Richard Clayton Coffelt	255p-Coffelt	1035
7590	07/13/2006		EXAMINER	
The Law Office of Craig W. Barber PO Box 16220 Golden, CO 80402-6004				STERLING, AMY JO
		ART UNIT		PAPER NUMBER
		3632		

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/631,839	COFFELT, RICHARD CLAYTON	
	<b>Examiner</b> Amy J. Sterling	<b>Art Unit</b> 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 14 February 2006.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 7,10-12,14 and 15 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 7,10-12,14 and 15 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

### **DETAILED ACTION**

This is the **Final Office Action** for application number 10/631,839 Bike Repair Station with Inner Tube Vending Machine and Air Compressor, filed on 7/30/03. Claims 7, 10-12, 14 and 15 are pending. This **Final Office Action** is in response to applicant's reply dated 2/14/06. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Applicant's amendment necessitated any new ground(s) of rejection presented in this Office action.

#### *Drawings*

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "concrete base, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for

consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 6044954 to McLaughlin.

The patent to McLaughlin discloses a device which has a bicycle support (109) which could be used to support a suspended bicycle, a vending machine (100) attached to the support, then vending machine dispenses air, the air which is defined as a bicycle component and a tool optimized for bicycle usage because air is needed for making the tires inflated, which is needed before riding the bicycle, and an air compressor (401) attached to the vending machine (100), the device which has sufficient weight to deter easy removal.

Claims 12, 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 5857417 to Hart.

Hart discloses the method of providing a machine to vend bicycle equipment. Air is dispensed through the disclosed machine, which is considered necessary equipment for bicycle use and selling the air by way of vending. Hart also discloses the method of providing an air compressor (16) and securing the provided devices in a sufficient manner to deter removal. The Hart device is secured to a concrete base (38), to deter vandalistic removal, selling the equipment by means of the vending machine. The Hart device is a coin operated air dispenser selling air for the appropriate amount of money. Hart also discloses that the device is located at a first place, a gasoline station (Col. 1, line 7) which would have a relatively high volume of bicycle use and it is inherent from the structure of the device, that it would be available 24 hours/day, there is no attendant needed to operate the device, and can be serviced at intervals as needed.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 6044954 to McLaughlin as applied to claim 7 above, and in view of United States Patent No. 5857417 to Hart.

McLaughlin discloses applicant's basic inventive concept, all the elements which are shown above with the exception that it does not show that the device is attached to a concrete base.

Hart teaches a device (10) having an air compressor (16) which is attached to a concrete base (38) (See Col. 2, lines 49-54), used to protect the device from vandalism. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Hart to have added a concrete apron to the device as taught by McLaughlin, in order to protect the device from vandalism.

### ***Response to Arguments***

The applicant has argued that "air" would not be considered "equipment for bicycle use". This is unpersuasive in that air for filling tires of a bicycle is essential to the use of that bicycle and absent any other distinguishing limitations about what "equipment" entails in the claim, the claim limitation is met by the reference. The applicant has also argued that claim 12 specifically points out both air and products. It is not clear as to where this limitation is claimed and furthermore, apparatus is not given patentable weight in a method claim and therefore the Hart reference meets these limitations.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the

references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both references are vending type machines that deal with air delivery or retrieval, both having a slightly different structure of machine. The problem to be solved is to protect the machine from vandalism, which was clearly in the domain of being in the knowledge of one of ordinary skill in the art at the time of the invention.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action. Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 571-272-6823. The fax machine number for the Technology center is 571-273-8300 (formal amendments) or 571-273-6823 (informal communications only). Any inquiry of a

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general nature or relating to the status of this application should be directed to the Technology Center receptionist at 571-272-3600.



Amy J. Sterling

Primary Examiner

7/5/06